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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT TACOMA**

9 **CASEY NEIBERT,**

10 Plaintiff,

11 v.

12 **BNSF RAILWAY COMPANY, a Delaware**
13 **corporation,**

14 Defendant.

Case No. _____

COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES (FELA)

JURY TRIAL DEMANDED

15 Plaintiff Casey Neibert, (“Plaintiff”), by and through the undersigned counsel, and for his
16 claims against Defendant BNSF Railway Company, a Delaware corporation (“Defendant”),
17 hereby states and alleges as follows:

18 **PARTES & JURISDICTION**

19 1. At all material times, Plaintiff was and is a resident of the State of Washington.

20 2. That at all material times, Defendant was and is a corporation duly organized and
existing under the laws of the State of Delaware.

21 3. That Defendant was and is in the business of operating a system of railroad tracks
22 in the State of Washington, and that said system included lines of track within the District where
23 this action is filed.

5. That the jurisdiction of this Court is based upon Title 45 U.S.C. § 51 et seq., commonly known as the Federal Employers' Liability Act (“FELA”) and 28 U.S.C. § 1331, and that this action is timely commenced within the meaning of 45 U.S.C. §56.

6. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 5 of this Complaint as though fully set forth herein.

8. That as a result of Plaintiff's use of truck no. 22751 and resulting exposure to the noxious fumes and odors, including but not limited to carbon monoxide, diesel exhaust and other products of combustion, emanating from said truck, Plaintiff was caused to suffer severe and permanent injuries and damages as complained of hereinbelow.

9. That the injuries and damages suffered by Plaintiff as a result of the December 9, 2019 exposure as set forth above were caused, in whole or in part, by the negligence of

Defendant, its agents, employees and/or officers, and in violation of 45 U.S.C. § 51-60 et seq., including, but not limited to:

- a. Negligently failing to provide Plaintiff with a reasonably safe place to work as required by law;
- b. Negligently failing to provide Plaintiff with reasonably safe, suitable, and proper equipment for the performance of his assigned duties;
- c. Negligently failing to inspect, maintain and repair its equipment to protect Plaintiff from the hazards associated with its equipment;
- d. Negligently failing to inspect, identify, and/or remedy unreasonably dangerous conditions which existed in the areas and on the equipment where Plaintiff was required to work;
- e. Negligently failing to warn or otherwise protect Plaintiff from the dangers and hazards he was exposed to and which confronted him;
- f. Other acts of negligence.

10. That due, in whole or in part, to Defendant's negligence under the FELA, Plaintiff sustained severe and permanent injuries including, but not limited to, head, neck, lungs, throat, and vocal cords, including vocal cord dysfunction, and to the bones, muscles, tissues, nerves, ligaments and internal parts thereof; and Plaintiff has suffered in the past, and will continue in the future to suffer pain and anguish and loss of enjoyment of life, and that he was otherwise injured and disabled.

11. That in an effort to treat, heal, and relieve his injuries, Plaintiff has spent, and will continue to spend, monies for medical and related care and treatment in amounts to be proven at trial.

12. That as a direct result, in whole or in part, of Defendant's negligence in violation of the FELA, Plaintiff has lost wages in the past, will continue to lose wages in the future, and will sustain a permanent diminution of earning capacity and loss of fringe benefits in amounts to be proven by the evidence at the trial of this matter.

REQUEST FOR RELIEF

1 **WHEREFORE**, Plaintiff respectfully requests that judgment be entered against the
2 above-named Defendant for recovery of special and general damages in an amount sufficient to
3 fully compensate Plaintiff for the damages and losses suffered, together with all costs,
4 disbursements, interest from the date of judgment, and other relief the Court deems appropriate.

5 DATED: November 28, 2022

ROSSI VUCINOVICH PC

6 By: s/James K. Vucinovich
7 James K. Vucinovich, WSBA #29199
8 ATTORNEYS FOR PLAINTIFF
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